

PROCLAMATION

No. 15128

By The

Governor of the State of Texas

Executive Office
May 30, 1935.

To All to Whom These Presents Shall Come:

WHEREAS, House Bill No. 187,

"An Act to provide for creating Firemen's Relief and Pension Fund in the State of Texas and in all incorporated cities and towns thereof having a regularly organized fire department with fire fighting equipment or apparatus of the value of one thousand dollars (\$1,000) or more therein; levying and assessing a designated tax of two (2) per centum of all gross insurance premium receipts collected or received from all fire and other kinds of insurance, except life insurance, and appropriating the proceeds of such tax to such Firemen's Relief and Pension Fund, providing for and directing the distribution thereof; creating and providing for selection of a Board of Firemen's Relief and Pension Fund Trustees in each such city or town that may now be or hereafter come within the provisions of this Act; prescribing the powers, duties, qualifications, time of meetings, etc., of such Board; providing for and prescribing the time and manner in which insurance companies and boards of trustees shall make and file reports and providing penalty for failure; providing for and prescribing the manner of determining assessments upon firemen participating in the benefits hereunder and for acceptance of donations and other gifts of money in augmentation of said fund; providing for retirement and pension of firemen because of length of service, age, amounts, manner of obtaining and who eligible to obtain such benefits; providing for and prescribing the amount of allowances or benefits payable to the widow, dependent children or dependent parents and defining who may participate as such beneficiaries; providing and prescribing the amount of hospitalization and etc., benefits payable to partly paid or volunteer firemen in case of accident or temporary disability; providing for and prescribing the manner of acceptance of provisions of the Act as prerequisite to participation in benefits thereunder; providing that benefits under this Act shall not be subject to garnishment, execution, attachment or other process and shall not be assignable; providing retired firemen may be recalled to active duty in certain cases; providing for and prescribing in what cases pensions may be suspended or forfeited; providing for appeals from the order or decision of the Board of Firemen's Relief and Pension Fund Trustees to Firemen's Pension Commissioner and prescribing the manner and procedure for effecting such appeals; providing for appeal from the Pension Commissioner to the proper Court in Travis County, Texas; creating the office of Firemen's Pension Commissioner; providing for and prescribing his salary, office expenses, etc., duties, powers, etc.; directing City Attorneys to represent and appear for boards of Trustees in cases of appeal from decisions of boards; providing for investment of surplus of the Fund and prorating of benefits when fund insufficient; defining terms; providing a saving clause; providing provisions hereof shall be cumulative of and in addition to all other laws and particularly Articles 6229 and 6243 and Acts amendatory thereof, and declaring an emergency,"

was regularly passed by the Forty-fourth Legislature in regular session and is now before me, as Governor, for approval or veto; and

WHEREAS, I have carefully studied this bill and have come to the conclusion that it is my duty to veto same for the following, among other, reasons:

1. The bill levies a tax of 2% on "all gross insurance premium receipts collected or received from all fire and other kinds of insurance, except life insurance," and appropriates proceeds of such tax to a relief and pension fund for firemen in any incorporated town or city having a regularly organized fire department with fire equipment or apparatus of the value of \$1,000, or more.

While I personally am in favor of firemen's pensions, I do not believe it is just or fair to, in effect, levy a tax upon a large class of people who will not receive any benefit therefrom and a larger class to whom the benefits will be, at most, indirect. The bill levies this tax of 2% on all gross premiums of every insurance company, including not only fire insurance, but "tornado, hail, cyclone, wind-storm, inland marine, and/or ocean marine insurance. It is difficult to see the relationship between, for instance, hail or wind insurance, and the obligation of people who have taken out that character of insurance, in many instances in the rural districts far removed from any incorporated city or town having such a fire department, to pay a part of their premiums for pensions for firemen.

I recognize, of course, the fact that firemen not only discharge the duties commonly attributed to them of dealing with fires, but are in many instances the first called upon for prompt service in case of any kind of public disaster. This however, does not, in my opinion, justify the imposition of a great burden upon one class of people for the benefit of another class, to which the group bearing the burden owes no special obligation apart from that of the general public. In other words, there would be more justification for a general tax upon all classes of people for the benefit of one particular group than loading the entire burden upon a particular class.

2. I am informed by the Insurance Department that this additional tax upon all premiums will inevitably result in raising the premium rates proportionately. This would but impose an additional burden upon real estate, which is already staggering under an unjust and almost unbearable burden.

The argument has been made by proponents of the bill that this Act should not raise insurance rates. They claim the rates already collected are sufficient to carry this additional burden without increasing the premiums.

These assertions are disputed by opponents of the bill, but even if it be true that this additional expenditure of hundreds of thousands of dollars can be paid out of present premium rates, then it but demonstrates that policy-holders throughout the State are already paying too much for insurance; and the Insurance Department should certainly look into the rates at once with a view to lowering them, rather than that the Legislature should afford even the semblance of justification, as by the passage of this bill, for raising insurance rates.

3. The record shows that the added taxation feature was incorporated in the bill during the rush of the closing hours of the Legislature. The assertion has been made that it was passed in one of the Houses as an uncontested bill. I do not believe that such a drastic step and such a sweeping change of policy, as is represented by this bill, should be taken without mature consideration on the part of members of the Legislature. Most of the arguments for and against the bill seem to have been made after the Legislature had passed the Act and was placed on my desk for veto or approval.

4. Candor compels me to express grave doubts as to the constitutionality of this Act. If constitutional, it is, of course, upon the proposition that firemen are engaged in public duties and that pension provisions are but a part of the compensation for services rendered in such public service. If this be true, then there was no necessity for the Legislature to submit

a proposed constitutional amendment, as it did, to authorize the Legislature to make provision for a pension and retirement fund for school teachers.

Conceding, however, that the measure is valid, then the policy of the bill will invite like provisions for every other character of city employees, as, for instance, policemen; and even county and State employees.

Our National Government is already dedicated to a general system of old age pensions. I recommended to the Legislature State participation and the submission of proper constitutional amendments to authorize the Legislature to participate with the Federal Government in old age pensions for all classes. The Legislature responded to this recommendation and has submitted to a vote of the people the old age pension question.

I very much dislike to pass upon a proposition of this kind which has for its purpose providing for the future of one of the finest classes of American citizenship, men who risk their lives and personal safety, some of them without pay. Too high tribute cannot be paid to the firemen and fire boys of Texas. With me, however, it is not a question of personal preference. It is but a simple question of duty.

I believe the commendable objectives of this bill can easily be made into a worthy piece of legislation. It was not done, however, in the hurried preparation and passage of House Bill 187.

Believing, therefore, it is my duty to do so, I, James V. Allred, Governor of Texas, by virtue of the authority vested in me by the Constitution and laws of this State, do hereby proclaim said bill vetoed for the reasons above set out and now on file in the office of the Secretary of State.

IN TESTIMONY WHEREOF, I, James V. Allred, have hereunto set my hand and caused the official seal to be affirmed hereto this 30th day of May, A. D., 1935.

JAMES V. ALLRED
Governor of Texas

(Seal)

By the Governor

(Signed) Clyde E. Smith

Assistant Secretary of State